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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/666,364	09/20/2000	Hideo Suzuki	39303.20197.00	8624

25224 7590 07/30/2003  
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EXAMINER

BECKER, SHAWN M

ART UNIT	PAPER NUMBER
2173	7

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/666,364	SUZUKI ET AL.
	Examiner	Art Unit
	Shawn M. Becker	2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 23 June 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,14,20 and 26-31 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,14,20 and 26-31 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 .	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

This action is in response to communication filed 6/23/03.

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 31-36 have been renumbered 26-31, and the dependencies have been changed accordingly.

It is noted that in the correspondence filed 6/23/03, it is stated, "Please cancel Claims 2-13, 15-19, and 21-30", however only 25 claims were presented earlier, which resulted in the misnumbering of claims 31-36.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 14, 20, and 26-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 14, and 20 each recite the limitation "[to] perform[ing] or stop displaying the at least one of the layers". It is unclear as to whether 'perform' refers to the 'displaying' of the

layer or the 'layer' itself, which is not described as something that could be performed by itself. That is, it is unclear if the controller is for carrying out the instruction for either displaying or not displaying the layer according to the display or non-display mode that is selected in the previous step.

4. Claim 34 recites the limitation "the layer" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 35 recites the limitation "the layer" in line 2. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 36 recites the limitation "the execution icon" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.
7. Claim 36 recites the limitation "the layer" in lines 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1, 14, 20, and 26-31 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. Weinstock et al. (hereinafter Weinstock).

Referring to claims 1, 14, and 20, Weinstock discloses a performance data editing method, apparatus, and machine-readable storing data and programs on a computer system containing a display that controls the computer system to display a plurality of layers on a screen of the display, wherein at least one execution icon corresponding to execution-related data can be attached to each of the layers. See Fig. 6, which shows several categories of information, where each category is represented by a layer of information that contains execution icons for manipulating musical data. Also, refer to col. 19, line 50 - col. 20, line 8.

Weinstock provides an instruction to control at least one of the layers to be placed in a display mode or a non-display mode selectively and controls the computer system to perform or stop displaying the at least one of the layers in response to the instruction. See Fig. 9, which shows a Views menu in which the user may select which categories (layers) are displayed. The categories with a check beside them are displayed, while the ones that are unchecked are in a non-display mode. Also, refer to col. 24, lines 27-49.

Referring to claim 26, Fig. 6 of Weinstock shows one or plural execution icons are displayed in each layer (category) on the screen of the display and are arranged in a prescribed direction in correspondence with the progress of performance data. For example, see col. 22, lines 54-67.

Referring to claim 27, Weinstock discloses that each layer (category) is displayed as an execution icon layer in correspondence with the execution-related data. For example, see col. 1, lines 25-38.

Referring to claim 28, Fig. 6 or Weinstock shows one of the execution icon layers contains a tempo icon layer. See Fig. 6, 606 and 610.

Referring to claim 29, Fig. 6 of Weinstock shows that a name of the layer is additionally displayed in accordance with the instruction when the layer is displayed on the screen of the display. See how the name of each category (layer) is displayed within the layer.

Referring to claim 30, it is inherent in Weinstock that a cursor (operator) is displayed that is controlled by a mouse to control each layer in accordance with the instruction when the layer is displayed on the screen of the display. See Fig. 6 and Fig. 9.

Referring to claim 31, when an execution icon attached to a layer of Weinstock is edited, content of edition is reflected onto the performance data. For example, see col. 21, lines 37-39 and col. 22, lines 20-40.

### ***Conclusion***

10. The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach methods of editing multimedia data (performance) data through the use of icons within windows/display areas (layers) of a GUI.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn M. Becker whose telephone number is 703-305-7756. The examiner can normally be reached on M-Th 8:00 - 5:30 and alternating Fridays.

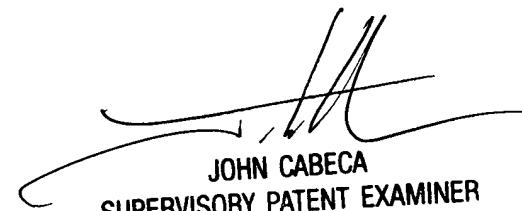
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Cabeca can be reached on 703-305-3116. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

smb  
July 24, 2003



JOHN CABECA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100